From: mds@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/23/02 2:56pm
Subject: Microsoft Settlement

Hi,

I've been programming computers for twenty-five years. And for about the last ten, I've been feeling that Microsoft has been making my life progressively more difficult. I acknowledge that some of Microsoft's actions have simply been annoying rather than illegal. However, I believe that some have been illegal. I was disappointed in the limitations in the scope of the antitrust trial to begin with. I was frustrated by the repeated delays that Microsoft used to further their monopoly. And I am further disappointed by the slap-on-the-wrist nature of the proposed settlement.

Microsoft has demonstrated time and again that they do not actually believe they are capable of doing any wrong. They have indicated that they do not believe that the US justice system has any real jurisdiction over them.

I believe that the original two-part breakup itself would have been inadequate to prevent Microsoft from illegally exercising and extending its monopolies. At this point I believe that Microsoft has three monopolies: (1) desktop operating systems (Windows), (2) office suites (Office), and (3) web browsers (Internet Explorer). And they are competing strongly in several other areas, without yet having gained dominance: (1) internet access (MSN), (2) web site design (Front Page), (3) palmtop operating systems (Windows CE), (4) server operating systems (Windows Professional), (5) web services (.NET), (6) game systems (XBox), (7) digital video recorders (UltimateTV, now apparently being folded into the XBox), (8) computer peripherals (IntelliMouse, Natural Keyboard, etc), (9) streaming media (Windows Media Player), (10) instant messaging (Windows Messenger), (11) webmail (Hotmail), and probably many more that I'm not familiar with or not remembering offhand.

Short of massive structural remedies (I was a fan of the 4-way breakup), the only chance I see of a world not effectively owned by Microsoft is the rise of open source software (also known as free-as-in-speech software). Open source can be nearly free, which is pretty much the only price point that Microsoft cannot match in the long term. (Since once software is written, it is nearly free to duplicate, the actual price of software that will have tens of millions of copies sold can be made very small, while still being profitable, which is how Microsoft built up its billions of dollars in cash reserves.) Linux has the potential of commoditizing the desktop (and server) operating system. Similarly, Star Office has the potential of commoditizing the office

suite. (Oddly enough, to compete against Netscape, Microsoft itself deliberately commoditized the web browser. They then followed by adding various proprietary extensions, such as ActiveX controls, which have only been moderately successful so far.)

Therefore I believe that the primary focus of the settlement should be in assuring that open source software can compete fairly with Microsoft. This is done by assuring that Microsoft software is standards-compliant when possible, and that Microsoft's APIs, file formats, and network protocols are openly published. If this is done, then it follows that other proprietary software companies can compete as well. More important to me, it means that open source projects can compete. Also, it is important that computers can be shipped with non-Microsoft software installed.

The most important of many changes I would make to the settlement as proposed is this:

Microsoft should be required to publish without any licensing restrictions full documentation on all file formats, network protocols and APIs used by its current software or hardware. Further, they should publish formats, protocols and APIs used by future software or hardware at least two months before the release of that software or hardware. There should be no restrictions on this publication. It should not just be licensed to competing software companies, but just put up on a public web site and so on. There should be no restrictions due to security issues, either. There are no good reasons that, given a decent security model, the publication of format, protocol or API information should harm the security. In cases where it would, there is very little real security to begin with. To help enforce this, there should be clear and severe penalties for failing to publish.

The second major change I would make is the addition of some form of punishment for past abuses, which does not seem to be part of the settlement at all.

Thank you,

Marc Shapiro

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